

FILED  
U.S. DISTRICT COURT  
BRUNSWICK DIV.

2009 JAN 13 AM 11:16

**United States District Court  
for the Southern District of Georgia  
Brunswick Division**

CLERK  
SO. DIST. OF GA.

MARSHAWN DAVIS,

Petitioner,

v.

RANDY TILLMAN, Warden,

Respondent.

CIVIL ACTION NO.: CV208-073


**ORDER**

Presently before the Court are Petitioner Marshawn Davis' ("Davis") Objections to the Magistrate Judge's Report and Recommendation. In his Objections, Davis contends his petition is untimely because his trial counsel was ineffective. Davis also contends he acted to avoid any problems associated with the one year statute of limitations period, but the courts delayed him. Davis further contends the "factual predicates were discovered during [his] exercise of due diligence." (Doc. No. 17, p. 2).

The assertions Davis sets forth in his Objections are not supported by the evidence before the Court and are without merit. The Magistrate Judge's Report and Recommendation is adopted as the opinion of the Court. Respondent's Motion to Dismiss is **GRANTED**. Davis' petition for writ of habeas corpus, filed pursuant to 28

U.S.C. § 2254, is **DISMISSED** as it was not timely filed. The Clerk of Court is directed to enter the appropriate judgment of dismissal.

SO ORDERED, this 13 day of January, 2009.

  
JUDGE, UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA